

The Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

DALE GARCIA and JANA
ARCHAMBEAU, husband and wife,

Plaintiffs,

v.

THOMAS BENENATI and LORETTA
BENENATI, husband and wife and the
marital community thereof; RYAN
LAYTON and JANE DOE LAYTON,
husband and wife and the marital
community thereof; ROBERT INGRAM
and JANE DOE INGRAM, husband and
wife and the marital community thereof;
HEATH YATES and JANE DOE YATES,
husband and wife and the marital
community thereof; MATT NILES and
JANE DOE NILES, husband and wife and
the marital community thereof; STATE OF
WASHINGTON; WASHINGTON STATE
PARKS AND RECREATION
COMMISSION; JOHN and JANE DOES 1-
20 and the marital communities thereof, and
ABC CORPORATIONS 1-10,

Defendants.

No. 3:19-cv-05597-BHS

DEFENDANTS STATE OF
WASHINGTON AND WASHINGTON
STATE PARKS AND RECREATION
COMMISSION'S MOTION FOR
JUDGMENT ON THE PLEADINGS

NOTE ON MOTION CALENDAR:
May 29, 2020

I. INTRODUCTION

Come now Defendants State of Washington and Washington State Parks and Recreation Commission and hereby move, pursuant to *Fed.R.Civ.P.* 12(c), for summary dismissal on the pleadings of all of Plaintiffs' claims against them, and as grounds therefor will show that they are not "persons" under 42 U.S.C. §1983; nor can they be sued in federal court because of the Eleventh Amendment.

II. STATEMENT OF FACTS

Plaintiffs bring this civil rights suit against a State Parks Ranger, several of his supervisors alleging that the Ranger used excessive force when he arrested him. These Defendants do not seek any relief by this motion.

Plaintiffs also sue the State of Washington and the State Parks and Recreation Commission. This is improper under the U.S. Constitution. *See Defendants' Answer to Complaint*, Dkt. 6 ("BY WAY OF FURTHER ANSWER AND THIRD AFFIRMATIVE DEFENSE, Defendants allege this action is barred by the Eleventh Amendment to the U.S. Constitution as regards the State of Washington and the Washington State Parks and Recreation Commission."). In addition, these entities are not "persons" under the Civil Rights Act. *Id.* ("BY WAY OF FURTHER ANSWER AND FOURTH AFFIRMATIVE DEFENSE, Defendants allege that neither the State of Washington and the Washington State Parks and Recreation Commission is a "person" under 42 USC § 1983.").

These two legal principles bar all of Plaintiffs' claims against these two Defendants, including not only their federal law claim: First Cause of Action: Violation of Civil Rights; but also their supplemental jurisdiction state law claims: Second Cause of Action: Common Law Negligent/Intentional Infliction of Severe Emotional Distress; Outrage; Third Cause of Action: Common Law False Arrest and False Imprisonment; Fourth Cause of Action: Common Law Malicious Prosecution; and, Fifth Cause of Action: Common Law Assault and Battery. *Complaint for Damages*, Dkt. 1, at 7-9.

III. LEGAL ANALYSIS

A. The State and Its Agencies Cannot Be Sued in Federal Court.

The Eleventh Amendment to the United States Constitution bars citizens from bringing lawsuits against states in federal courts. *See Welch v. Texas Dept. of Highways and Public Transp.*, 483 U.S. 468, 472–73 (1987) (plurality opinion); *Edelman v. Jordan*, 415 U.S. 651, 662–63, 94 S.Ct. 1347, 39 L.Ed.2d 662 (1974).

As the Supreme Court has explained:

Section 1983 provides a federal forum to remedy many deprivations of civil liberties, but it does not provide a federal forum for litigants who seek a remedy against a State for alleged deprivations of civil liberties. The Eleventh Amendment bars such suits unless the State has waived its immunity, *Welch v. Texas Dept. of Highways and Public Transportation*, 483 U.S. 468, 472–473, 107 S.Ct. 2941, 2945–2946, 97 L.Ed.2d 389 (1987) (plurality opinion), or unless Congress has exercised its undoubted power under § 5 of the Fourteenth Amendment to override that immunity. That Congress, in passing § 1983, had no intention to disturb the States' Eleventh Amendment immunity and so to alter the federal–state balance in that respect was made clear in our decision in *Quern*.

Will v. Michigan Dep't of State Police, 491 U.S. 58, 65–66 (1989).

Thus, Plaintiffs cannot sue these two State Defendants in federal court. All their claims must be dismissed as against them.

B. Defendants the State of Washington and Washington State Parks and Recreation Commission Are Not "Persons" Under the Civil Rights Act.

Nor may Plaintiffs sue these Defendants under Section 1983, in any court. Defendants are not "persons" under 42 U.S.C. §1983. "[N]either a State nor its officials acting in their official capacities are 'persons' under § 1983." *Will v. Michigan Dep't of State Police*, 491 U.S. 58, 71 (1989); "[T]he State of Washington is not a 'person' that may be sued under § 1983[.]" *Jenkins v. Washington*, 46 F. Supp. 3d 1110, 1115 (W.D. Wash. 2014). "[T]he WSP is not a 'person' within the meaning of § 1983[.]" *Manning v. Washington*, 463 F. Supp. 2d 1229, 1233 (W.D. Wash. 2006).

1 This Court has addressed both issues:

2 Under the Eleventh Amendment to the United States Constitution, a state
3 is not subject to suit by its own citizens in federal court. A state agency, as
4 an arm of the state, is immune from suit in federal court under the
Eleventh Amendment as well. An entity that has Eleventh Amendment

5 *Hill v. Washington State Dep't of Corr.*, 628 F. Supp. 2d 1250, 1267 (W.D. Wash. 2009)
6 (citations omitted).

7 IV. CONCLUSION

8 In sum, this Court should dismiss Defendants State of Washington and the State
9 Parks and Recreation Commission. Plaintiffs' claims against the individual Defendants may
10 proceed.

11 RESPECTFULLY SUBMITTED: May 7, 2020

12
13 KEATING, BUCKLIN & McCORMACK, INC., P.S.

14
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CERTIFICATE OF SERVICE

I hereby certify that on the below date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants: N/A.

DATED: May 7, 2020

/s/ Stewart A. Estes

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